

Remarks

This amendment responds to the official action mailed November 15, 2007 and January 31, 2008, being returned undeliverable, apparently due to expiration of a postal forwarding order. The entire delay in prosecuting the application was unintentional. Applicant concurrently petitions under 37 CFR §1.137(b) to revive.

The official action contained a final rejection. Applicant requests continued examination and submits this amendment to advance prosecution of the application.

Claims 1-3 and 5-7 were rejected under 35 USC §112, first paragraph, as failing to comply with the enablement requirement. The examiner asserts in the official action that applicant's original disclosure merely states that the union nut "forms an extension of the grip" and that its "outer surface is flush with the outer surface of the handgrip" (citing page 3, lines 3-11 and page 4, lines 16-17). Applicant does not regard the adverb "merely" as appropriate in this context. The cited passages indisputably state that the union nut extends the grip because the outer surfaces of the grip and the union nut are flush with one another. This aspect is supported by an enabling disclosure, it is particularly and distinctly defined in claim 1 as amended, and it is not disclosed in the prior art of record or obvious to a person of ordinary skill.

The official action argues that the "outer surface" would not be understood by the person of ordinary skill, and might refer to those surfaces of the union nut and the fitting (or perhaps the handgrip) that abut against one another axially. There is no basis for such conclusions. "Outer surface" plainly means the surface that is on the outside. There is no reason stated in the official action or found anywhere in the record to believe otherwise. The examiner's supposed interpretation of flush outer surfaces as meaning abutted axial faces is inconsistent with the admitted passages describing the union nut to form an extension of the grip and to have an outer surface is flush with the outer surface of the handgrip.

In this response, applicant provides reasons why the disclosure is enabling and the examiner's interpretation is simply wrong. There is no basis of record to assert that axially facing abutted surfaces of a nut tightened against a fitting are "outer surfaces"

that are "flush" as disclosed and claimed. The disclosure is sufficient to enable a person of ordinary skill to make and use the subject matter as claimed

In the official action, objection was made to the formal drawings as to certain aspects that were not found exactly to match the drawings as filed, which were copies of hand drawn sketches. With this amendment, applicant submits a new set of formal drawings wherein the aspects questioned by the examiner have reverted to the details shown in the drawings as filed. These changes, all in Fig. 1, are squaring the edges of handgrip 4, shown in side elevation in Fig. 1, where the diameter is stepped down to that of the threaded fitting 5. See page 3, lines 12-14. The shape of the threaded fitting is changed back to match the drawings as filed, wherein the threaded fitting was tapered. And at the end of the union nut 6 opposite from the fitting, a double dashed line is shown rather than a single line, thereby matching the drawings as filed.

Objection was also made to the drawings under 37 CFR §1.84(a)(4), which section, according to the official action, requires that broken lines be reserved for "alternate views." Reconsideration is requested. There appears to be no part (4) in 37 CFR §1.84(a), which ends at (a)(2). There is a section 1.84(h)(ii)(4) that says the alternate positions of an element may be illustrated using broken lines.

Nevertheless, in order to advance prosecution, applicant has obviated the objection by presenting a replacement sheet in which Fig. 1 shows the union nut 6 with a solid line outline. This representation denotes an opaque element and therefore, threaded fitting 5, which is inside the union nut, is shown with dashed lines. Also, the first paragraph in the detailed description (para. [0022], or page is amended so that the statement saying that the union nut is shown by dashed lines is changed to say that the union nut is shown by solid lines and the fitting 5 is shown by dashed lines.

The replacement sheet matches the drawings as filed and is formally correct. No new matter is presented. Applicant requests that the drawing objections be withdrawn.

Claims 1, 2, and 7 were rejected under 35 USC §102 over Thomas (US 6,641,057). It is clearly shown in Fig. 1 of Thomas that union nut 156 has an outer surface that flares radially outwardly from the diameter of the stem portion 46, 56 (which

are semi-cylindrical parts abutting along a longitudinal line). The outer surface of union nut 156 is not flush with the outer surface of the stem portion 46, 56.

Claim 1 as amended unequivocally states that the outer surface of the union nut extends the outer surface of the handgrip, reflecting the text of the disclosure as filed, including page 3, lines 3-11 and page 4, lines 16-17 and Fig. 1.

However, in the official action it is stated that the examiner sees no difference between the element 156 of Thomas and what the original drawings of the instant case reveal. Reconsideration is requested. The original drawings and also the written description define a union nut and handgrip wherein the union nut extends the handgrip by virtue of the outer surfaces of the handgrip and the nut being flush. This aspect is not disclosed in Thomas, which has a union nut with an outer surface that is distinctly larger than the stem portion leading up to the spray emitting head. Applicant's disclosure explains that making the union nut an extension of the grip produces a particularly effective ratio of shapes in a hand-held shower head.

The rejection under 35 USC §102(b) over Thomas states that the union nut 156 is Thomas forms an extension or the handgrip but fails to state or explain how the Thomas union nut 56 is considered to have an outer surface that is flush with the outer surface of the stem portion 46, 56. Therefore, the rejection does not address the invention claimed as a whole. The rejection is defective and must be withdrawn.

The §102(b) rejection does not incorporate the examiner's statements in the objection to the disclosure to the effect that the disclosure and claims with respect to "flush outer surfaces" on the handgrip and the union nut may be interpreted to mean that the axial end of the union abuts against the axial end of the fitting and/or handgrip. Assuming that this interpretation is made, reconsideration is requested because the rejection is based on an erroneous interpretation of the terms "outer surface" and "flush." The passage of claim 1 at issue is:

. . . wherein the union nut on the end of the shower hose has an outer surface that is flush with an outer surface of the handgrip, such that the outer surface of the union nut extends the outer surface of the handgrip.

By rules of grammar, the phrase "*the union nut on the end of the shower hose has an outer surface . . .*" does not state or imply that the end of the union nut is the outer surface that is flush with the outer surface of the handgrip. This passage refers to the end of the shower hose, not the end of the union nut.

An "outer" surface is a surface that is on the outside as opposed to the inside. One can suggest as the examiner does that the axial end of an item such as a nut is an outer surface. But the claim expressly states that the outer surface of the union nut is "flush" with the outer surface of the handgrip. This aspect cannot be met by axially abutting faces of elements that are threaded together because those elements do not produce a flush surface. Facially abutted surface are in contact, i.e., opposed, and cannot continue one another's surfaces. Furthermore, axially abutted end faces are not outer faces because they are covered over by the surface against which they abut.

By definition, the adjective "flush" means having or forming a continuous plane or surface. It is an aspect of the term that two surfaces that are flush often abut one another, but the abutment is edgewise, which is necessary for each of the two surfaces to align with and extend the plane of the other of the two surfaces. In order to read the term "flush" to apply to facially abutted surfaces, it is necessary to take the 'abutment' aspect out of context and to eliminate the aspect of being "flush" that requires the alignment of adjacent surfaces to the same level or plane.

Moreover, in the context of applicant's disclosure, the meaning of the term plainly refers to two outer surfaces abutting so that the outer surface of the union nut continues and longitudinally extends the surface of the grip. See page 3, lines 3-11. It is inconsistent with the disclosure and departs from the common meaning of the term, to construe "flush" to mean facially abutting.

Accordingly, the rejection under Section 102(b) over Thomas is unwarranted. Thomas lacks a union nut on an end of the shower hose, wherein the union nut on the end of the shower hose has an outer surface that is flush with an outer surface of the handgrip, such that the outer surface of the union nut extends the outer surface of the handgrip. The outer surface of Thomas' union nut is flaring rather than flush with the

grip and reaches a diameter that is distinctly larger than that of the handgrip. Thomas does not anticipate the invention claimed as a whole.

The remainder of the official action is devoted to pointing out that Thomas or Thomas in combination with DE 19942853 has a grip with a longitudinal axis that is approximately parallel to the surface of the spray disc, has ratios of length and thickness that are comparable to that claimed, and include round or oval configurations. These points are not disputed at this time, because the invention as defined in claim 1 is novel and unobvious, and the remaining claims are allowable by their dependence.

The invention defined in claim 1 is novel because there is no disclosure in the prior art of a hand shower device as claimed wherein the union nut on the end of the shower hose has an outer surface that is flush with an outer surface of the handgrip, such that the outer surface of the union nut extends the outer surface of the handgrip. The Thomas reference has a union nut 156 with a distinctly different diameter on an outer surface that is not flush with and does not extend the outer surface of the handgrip. The union nut in Thomas clearly interrupts the longitudinal extension of the surface.

The differences between claim 1 and the prior art are such that the subject matter claimed as a whole would not have been obvious to a person of ordinary skill. In order to reach the invention from the prior art of record, it would be necessary to reconfigure the union nut to match the outer shape of the handgrip, thereby extending the handgrip shape by the longitudinal length of the union nut. This change would eliminate the distinct diameter nut, which is a prominent grip-forming aspect of Thomas. There is no basis to believe that a person of ordinary skill would predict a beneficial result from eliminating Thomas' grip forming profile.

Thomas's disclosure does not teach a grip that couples by union nut 156 to the end of a shower hose. In Thomas, the neck portion 64 is a shape holding sequence of frictionally attached segments. The neck portion 64 is as much part of the grip as stem part 56. There is no suggestion in Thomas or elsewhere in the prior art that the neck 64

could be replaced by a hose and union nut 156 re configured to have an outer surface flush with the stem outer surface so as to extend the length of the hand grip.

The person of ordinary skill has a level of skill that is indicated by the prior art of record. The person of ordinary skill is able to design hand grips of various lengths and shapes. However, there is no basis of record to believe that instead of adjusting the shape of a handgrip, one can obtain an improved hand shower for manual manipulation, by using the union nut to provide part of the longitudinal length of the handgrip, thereby limiting the length between the spraying surface and the hose.

Therefore, the differences between the invention and the prior art are such that the subject matter claimed as a whole is neither known nor obvious.

The disclosure and claims have been amended to comply with the requirements stated in the official action. No new matter is presented. The disclosure and drawings are in proper form. The claims particularly and distinctly define the subject matter of the invention and patentably distinguish from the prior art of record. Reconsideration and allowance are requested.

Respectfully submitted,

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